

## **REMARKS**

Applicant is in receipt of the Office Action mailed November 2, 2004. Claims 1 – 69 were rejected. Claims 1, 28, 36, 38, 40, 51-55, 62, and 66 have been amended. Claims 1 – 69 remain pending in the application.

### **Double-Patenting Rejections**

Claims 1 – 69 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 – 68 of co-pending Application No. 10/046,868, and claims 1 – 60 of co-pending Application No. 10/046,861. Applicant is willing to file Terminal Disclaimers if necessary to overcome these rejections in the event the conflicting claims are patented.

### **Section 103 Rejections**

Claims 1 – 69 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication 2001/0034881 (Washington). Applicant respectfully traverses this rejection.

It is noted that the invention of the subject matter in the rejected claims was made prior to the effective date of the Washington reference. Applicant considered filing an oath or declaration under 37 C.F.R. §1.131 to establish prior invention. However, Applicant believes that it is not necessary to file such an oath or declaration at this time because the present claims are patentable over Washington.

As the Examiner is certainly aware, to establish prima facie obviousness of a claimed invention, all claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974), MPEP 2143.03. Obviousness cannot be established by combining or modifying the teachings of the prior art to produce the claimed invention, absent some teaching or suggestion or incentive to do so. *In re Bond*, 910 F. 2d 81, 834, 15 USPQ2d 1566, 1568 (Fed. Cir. 1990). As held by the U.S. Court of Appeals for the Federal Circuit in *Ecolochem Inc. v. Southern California Edison Co.*, an obviousness claim that lacks evidence of a suggestion or motivation for one of skill in the art to combine prior art references to produce the claimed invention is defective as hindsight analysis.

In addition, the showing of a suggestion, teaching, or motivation to combine prior teachings “must be clear and particular. ... Broad conclusory statements regarding the teaching of multiple references, standing alone, are not ‘evidence’.” *In re Dembiczak*, 175 F.3d 994, 50 USPQ2d 1614 (Fed. Cir. 1999). The art must fairly teach or suggest to one to make the specific combination as claimed. That one achieves an improved result by making such a combination is no more than hindsight without an initial suggestion to make the combination.

However, Washington does not teach or suggest several elements of the present claims and therefore provides no basis for establishing prima facie obviousness. For example, amended claim 1 recites:

1. A method for executing graphical data flow programs, the method comprising:
  - executing a first graphical data flow program, wherein said executing the first graphical data flow program produces first program output;
  - executing a second graphical data flow program concurrently with the first graphical data flow program, wherein said executing the second graphical data flow program produces second program output; and
  - displaying the first program output and the second program output in a single graphical user interface on a display.

Applicant first notes that the second graphical data flow program is executed concurrently with the first graphical data flow program. However, Washington contains no teaching regarding the concurrent execution of two different graphical data flow programs. Applicant also submits that Washington contains no suggestion that would motivate one to perform concurrent execution of two graphical data flow programs.

Applicant also submits that displaying first program output from a first graphical data flow program and second program output from a second graphical data flow program in a single graphical user interface is a novel feature that is unknown in the prior art. Applicant respectfully disagrees with the Examiner’s statements regarding this element of claim 1. The Examiner states that, “In light of Washington teaching of generating multiple graphical programs and measuring performance of a being modeled physical system, it would be naturally desirable to have a single GUI on which the user

can control or monitor operations of the concurrently running multiple graphical programs.” Washington teaches the concept of a GPG program that in various embodiments may be operable to programmatically or automatically generate graphical programs that perform various functions. However, Washington contains no teaching or suggestion whatsoever that would motivate one to perform a concurrent execution of two different graphical programs that are programmatically generated. The mere fact that different kinds of graphical programs can be programmatically or automatically generated provides no more motivation for performing a concurrent execution of different graphical programs than does the fact that different kinds of graphical programs can be manually created in response to direct user input.

Therefore, Applicant submits that Washington contains no teaching or suggestion that would motivate one to perform a concurrent execution of two different graphical data flow programs as recited in claim 1. Moreover, even if Washington did suggest the concept of concurrently executing two different graphical data flow programs, this would not provide sufficient motivation to lead one skilled in the art to implement a single graphical user interface to display program output from both graphical data flow programs. In the prior art, different graphical data flow programs typically had their own separate graphical user interfaces, and Washington contains no teaching or suggestion that would lead one to veer from this course. Applicant submits that a single graphical user interface that displays program output from two different concurrently executing graphical data flow programs is a novel concept that is unknown in the prior art and respectfully requests that the Examiner provide a reference that teaches the concept of such a single graphical user interface.

Thus, for at least the reasons provided above, Applicant respectfully submits that claim 1, and claims dependent thereon, are patentable over Washington. Independent claims 28, 36, 38, 40, 51-55, 62, and 66 recite similar features as claim 1, and so for at least the reasons provided above, Applicant submits that these claims, and claims respectively dependent thereon, are also allowable.

Applicant also asserts that numerous ones of the dependent claims recite further distinctions over Washington. For example, claim 2 recites the additional limitations of:

receiving user input to the single graphical user interface during said executing; and  
providing the user input to at least one of the first graphical data flow program or the second graphical data flow program.

Applicant submits that the concept of receiving user input to a single graphical user interface that displays program output from two different concurrently executing graphical data flow programs and providing the user input to at least one of the concurrently executing graphical data flow programs is a novel concept that is unknown in the prior art. Washington contains no teaching or suggestion that would motivate one to implement this functionality, for reasons similar to those discussed above.

As another example, claim 5 recites the additional limitations of:

wherein the first graphical data flow program executes on a first computer system;  
wherein the second graphical data flow program executes on a second computer system.

Washington does not teach or suggest the concept of executing a first graphical data flow program on a first computer system and concurrently executing a second graphical data flow program on a second computer system.

As another example, claim 18 recites the additional limitations of:

wherein the first graphical data flow program is associated with a first graphical program development environment;  
wherein the second graphical data flow program is associated with a second graphical program development environment, wherein the second graphical program development environment is different than the first graphical program development environment.

Washington contains no teaching or suggestion that would motivate one to perform a concurrent execution of two graphical data flow programs that are created in two different graphical program development environments. Furthermore, the concept of a single graphical user interface that displays program output from two concurrently executing graphical data flow programs created in different graphical program development environments is a novel concept that is unknown in the prior art, and

Washington contains no teaching or suggestion that would motivate one to veer from the prior art in this regard.

Applicant thus submits that the present claims are patentable over Washington for at least the reasons given above.

## CONCLUSION

Applicant submits the application is in condition for allowance, and an early notice to that effect is requested.

If any extensions of time (under 37 C.F.R. § 1.136) are necessary to prevent the above referenced application(s) from becoming abandoned, Applicant(s) hereby petition for such extensions. If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert & Goetzel PC Deposit Account No. 50-1505/5150-56000/JCH.

Also enclosed herewith are the following items:

☒ Return Receipt Postcard

Respectfully submitted,



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Jeffrey C. Hood  
Reg. No. 35,198  
ATTORNEY FOR APPLICANT(S)

Meyertons, Hood, Kivlin, Kowert & Goetzel PC  
P.O. Box 398  
Austin, TX 78767-0398  
Phone: (512) 853-8800  
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